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Letter dated 26 June 2014 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit a letter dated 16 June 2014 from the Chair of the International Commission of Inquiry on the Central African Republic, Bernard Acho Muna, forwarding the preliminary report of the Commission in accordance with Security Council resolution 2127 (2013) (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

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Annex

I have the honour to transmit the final draft of the preliminary report of the International Commission of Inquiry on the Central African Republic in accordance with Security Council resolution 2127 (2013).

We regret that we had to ask for a delay in the publication of the report. We also count, however, on your comprehension of the fact that we clearly wish to submit a report that reflects the situation in the Central African Republic.

We remain at your disposal and that of the Security Council.

(*Signed*) Bernard Acho **Muna**
Chair

Preliminary report of the International Commission of Inquiry on the Central African Republic, submitted pursuant to Security Council resolution 2127 (2013)

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Summary

Owing to the deteriorating situation in the Central African Republic, the Security Council established an international commission of inquiry to investigate reports of violations of international humanitarian and international human rights law and abuses of human rights committed in that country by all parties since 1 January 2013, compile information, help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and help ensure that those responsible are held accountable.

In April and May 2014, the International Commission of Inquiry on the Central African Republic began carrying out its investigations. In Bangui, the Commission received first-hand testimony from interviews with victims, witnesses and individuals with relevant information. In total, the investigators carried out 309 interviews with witnesses who provided information of relevance to the Commission's mandate. Furthermore, the Commission received and reviewed case files from the national judicial and prosecuting authorities and from national and international non-governmental organizations. A total of 181 case files, including medical records, were provided to the Commission. The Commission also conducted site visits to specific locations in Bangui where incidents had occurred in order to corroborate information provided by witnesses.

The Commission, at this stage of its inquiry, concludes that there are reasonable grounds to believe that all parties to the conflict have, since 1 January 2013, perpetrated serious violations of international human rights and international humanitarian law and abuses of human rights. The international community cannot ignore the fact that the Muslim community and some ethnic groups are at risk. Currently, 700,000 people are either internally displaced or have taken refuge in neighbouring countries. This constitutes a considerable proportion of the 4.5 million inhabitants of the Central African Republic and places a heavy burden on its neighbours.

The Commission is concerned and calls on the National Transitional Government to take strong initiatives to foster the peaceful coexistence of communities and dialogue between Christian and Muslim communities and among politicians. The Commission recommends that the international community ensure a speedy and robust implementation of the multifaceted protection-of-civilians mandate of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic and that it support the transition process, the preservation of territorial integrity of the Central African Republic, the delivery of humanitarian assistance, the promotion and protection of human rights, national and international justice and the rule of law, disarmament, demobilization and reintegration, and repatriation.

I. Introduction

1. The present preliminary report is submitted pursuant to paragraph 25 of Security Council resolution 2127 (2013), by which the Council requested the Secretary-General to report to it on the findings of the International Commission of Inquiry on the Central African Republic six months and one year after the adoption of that resolution. The report is based on the outcome of the investigations, analyses and findings of the Commission covering the period from the end of March to mid-May 2014.

A. Mandate and methods of work

2. The Security Council, acting under Chapter VII of the Charter of the United Nations, requested the Secretary-General, in paragraph 24 of its resolution 2127 (2013) of 5 December 2013, to rapidly establish an international commission of inquiry to investigate reports of violations of international humanitarian law, international human rights law and abuses of human rights in the Central African Republic by all parties since 1 January 2013, compile information, help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and help ensure that those responsible are held accountable. In that same paragraph, the Council called upon all parties to cooperate fully with such a commission.

3. In compliance with Security Council resolution 2127 (2013), in January 2014 the Secretary-General appointed three high-level experts members of the International Commission of Inquiry on the Central African Republic: Jorge Castañeda (Mexico), Fatimata M'Baye (Mauritania) and Bernard Acho Muna (Cameroon). Mr. Muna was appointed Chair of the Commission.

4. In view of the prevailing conditions in the Central African Republic, the Secretary-General decided that the Commission should be located in Bangui.

5. As is usual practice, the Secretary-General requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to provide technical support to the Commission through the establishment of a secretariat composed of individuals with various skills and expertise in international human rights law and international humanitarian law who would act under the responsibility of a coordinator. This arrangement has allowed the Commission to benefit from the work already carried out by OHCHR human rights monitors, special rapporteurs of the Human Rights Council and other competent bodies.

6. In view of the urgency of the situation on the ground, the Chair of the Commission visited Bangui from 26 February to 1 March 2014. During that brief visit, he met with the President of the National Transitional Government, who was accompanied by the Minister of Justice and three advisers. He also met with the Minister for Foreign Affairs of the Central African Republic, the Ambassador of France, the Commander of the French forces (Operation Sangaris), the Special Representative of the Chairperson of the African Union Commission, the Commander of the African-led International Support Mission in the Central African Republic (MISCA) forces, the Representative of the European Union, the Chargé d'affaires of the Embassy of Cameroon and the Council of Religious Leaders. In

addition, the Chair met with officials of OHCHR, representatives of local non-governmental organizations and other individuals.

7. The members of the Commission and the Coordinator of the secretariat met for the first time in Geneva on 5 March 2014. During the following five days, they met with the United Nations High Commissioner for Human Rights and senior OHCHR staff, who briefed them on all the arrangements that had been put into place to enable them to execute their mission successfully. They also met with the Representative of the Central African Republic to the United Nations Office at Geneva and the Minister of Justice of the Central African Republic, who was in Geneva at the time. In addition, they were received by the representatives of the European Union in Geneva.

8. The members of the Commission arrived in Bangui on 11 March 2014 and were received by the Special Representative of the Secretary-General in the Central African Republic. For personal reasons, Mr. Castañeda had to return to his home country and did not take part in the investigation or in the drafting of the present report. On 12 March 2014, the two remaining members of the Commission started their work, with the support of its secretariat, which was gradually deployed to the Central African Republic starting on 8 March 2014; the last investigator arrived in Bangui on 1 April 2014. During that period, rules of procedure and an investigation plan for the Commission were developed and adopted.

9. The Commission consulted with staff of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), formerly of the United Nations Integrated Peacebuilding Office in the Central African Republic. On 13 March 2014, they were received by the Prime Minister and two of his advisers. The Commission also met with the Special Representative of the Chairperson of the African Union Commission in Bangui, the Head and the Military Commander of MISCA and the commanding officer of Operation Sangaris. Meetings also took place with the Representative of the European Union and the Ambassador of France. The Commission held meetings with representatives of local non-governmental organizations and professional associations, including the Bar Association and the Association of Magistrates.

10. In view of the time frame that the Security Council gave to the Commission to carry out its investigations and because of the limited resources available to the Commission, it was necessary to prioritize the incidents and sites to be investigated. Accordingly, the Commission identified numerous incidents that illustrate and are part of the main patterns that depict the overall nature of the violations committed by the armed forces or by armed groups during the reporting period. The fact that certain types of violations or specific incidents are not mentioned in the present report should not be interpreted as indicating that they are not serious enough or that they are irrelevant to the work of the Commission.

11. Once the Commission became fully operational, investigators started conducting meetings with different stakeholders. Open-source material was gathered and analysed. Documentation provided by the United Nations, the Government of the Central African Republic, local authorities, local and international non-governmental organizations and leaders of the Muslim and Christian communities containing allegations of violations of international human rights law and international humanitarian law were reviewed. The Commission established contacts with the international media and its Chair held press briefings in Geneva and Bangui when

he deemed it necessary to do so. The establishment of the Commission in the Central African Republic has drawn considerable attention from international and local media outlets, which have been very active in covering and reporting on incidents and developments in the Central African Republic.

12. For the purpose of the preliminary report, the Commission took into consideration the logistical constraints and critical security concerns, which did not enable a full deployment of its investigators throughout the Central African Republic. It decided, therefore, to focus its initial two-month phase of investigations on Bangui. This preliminary report contains analyses and findings from this phase. The Commission expects to expand its investigations during the next phase, to cover other critical incidents committed all over the territory of the Central African Republic.

13. The Commission carried out its investigations from 1 April to 15 May 2014. In Bangui, the Commission carried out interviews with victims, witnesses and individuals, who provided relevant information through first-hand testimonies. In total, the investigators carried out 309 interviews with witnesses who provided information relevant to the Commission's mandate. The overwhelming majority of those witnesses did not object to the Commission sharing accounts of their experiences with national and international judicial and prosecuting authorities. The interviews were conducted at the offices of MINUSCA, the premises of local non-governmental organizations, local mosques, town halls and hospitals in Bangui.

14. The Commission received and reviewed case files from the national judicial and prosecuting authorities and national and international non-governmental organizations. A total of 181 case files, including medical records, were provided to the Commission. The Commission also conducted site visits to specific locations in Bangui where incidents had occurred in order to corroborate information provided by witnesses.

15. The Commission obtained testimonies from witnesses and gathered data from reliable sources concerning the death toll. The information indicates that mass killings were committed in Bangui during the period under investigation.

16. From the outset, the Commission decided to treat all information collected as confidential and to protect the particulars, the safety and the privacy of all the victims, witnesses and other sources who requested that their identity and particulars not be disclosed. Only those sources who have not objected will be named explicitly. Although the Commission received a large volume of reports, documents, photographs and videotaped materials from individuals, non-governmental organizations, international and national judicial and prosecuting authorities, and medical and health institutions, it was not able to ascertain the authenticity of some of those materials owing to time constraints and the lack of appropriate technical tools. The preponderance of some of these materials and the fact that they were collected from reliable sources provide them with a degree of credibility, corroborating information obtained from some witnesses, and attest to the occurrence of violations of international human rights law and international humanitarian law in Bangui.

17. Consistent with the practice of other United Nations fact-finding bodies, the Commission based its findings on a "reasonable grounds to believe" standard of proof. In other words, there are reasonable grounds to believe that an incident or a pattern of behaviour occurred if the Commission obtained a reliable body of

information, consistent with other information, indicating such occurrence. This standard of proof is sufficiently high to call for further investigations to be carried out into an incident or pattern of violations of international humanitarian and human rights law or human rights abuses. The same standard of proof will be used to help identify perpetrators of violations and abuses.

18. The Commission, having reviewed allegations made in relation to the violations covered under its mandate and having conducted analyses of issues raised, has determined that the violations set out below are the most frequently committed by the parties involved in the conflict.

19. The violations of international human rights law and abuses of human rights committed most frequently are: (a) extrajudicial executions; (b) enforced and involuntary disappearances; (c) torture and other cruel and degrading treatment or punishment; (d) arbitrary arrest and detention; and (e) violations of the rights to freedom of expression and movement.

20. The violations of international humanitarian law and international criminal law committed most frequently are: (a) the killing of members of a group with intent to destroy, in whole or in part, an ethnic or religious group; (b) serious bodily or mental harm; (c) deliberate infliction on a group of conditions of life calculated to bring about its physical destruction, in whole or in part; (d) direct and public incitement to commit genocide; (e) widespread or systematic attacks against a specific civilian population on political, ethnic and religious grounds; (f) murder, torture, rape and any other form of sexual violence; (g) enforced disappearance of persons; (h) conscription or enlistment of children under 15 years of age; (i) violence to life, health and physical or mental well-being of persons, in particular murder, as well as cruel treatment such as torture, mutilation or any form of corporal punishment; (j) collective punishment; and (k) pillage.

21. Because the Security Council instructed the Commission to help identify the perpetrators and point to their possible criminal responsibility, the Commission is committed to also focusing its efforts on identifying the political and military leaders who could be held criminally responsible before a court of law.

B. Challenges faced by the Commission

22. The Commission faced tremendous challenges in carrying out its work against very tight deadlines and in a difficult security environment. The Commission had to cancel planned visits to the field owing to logistical and security considerations, which also delayed the deployment of its investigators to the field until April 2014.

23. The complexity of the situation on the ground, coupled with the size of the country, made it a daunting challenge for the Commission's only five investigators to cover the whole territory where incidents were reported. Moreover, the fact that the Commission does not have a chief of investigation or a legal adviser was and still is a source of anxiety that requires attention if the Commission is to receive the support it needs to effectively discharge its responsibility in terms of covering the whole territory within the time frame set out in its mandate.

24. Another critical challenge lay in the displacement of many victims and witnesses inside and outside the Central African Republic, which made it difficult

for the Commission to meet with some witnesses to collect or corroborate information obtained from open sources or provided by other witnesses.

25. Another significant challenge was the broad scope of the mandate of the Commission and the need to conduct investigations with limited resources in less than two months, before having to submit a preliminary report in June 2014. This put added pressure on the members of the Commission and the staff of its secretariat.

C. Cooperation and acknowledgements

26. The Commission enjoyed excellent working relations with most of the stakeholders and interlocutors in the Central African Republic, notably the national transitional authorities, national and international non-governmental organizations and United Nations agencies. The Commission benefitted immensely from the cooperation provided by MINUSCA, mostly in terms of diplomatic, administrative and logistical assistance.

27. OHCHR was of great assistance in the establishment of the Commission and its secretariat and continues to provide support.

28. The Commission has also enjoyed the full support of the Office of the Prosecutor of the International Criminal Court, which has opened a preliminary examination in order to ascertain whether the criteria of the Rome Statue for opening an investigation into the alleged crimes committed in the Central African Republic, which fall within the jurisdiction of the Court, have been met. On 1 April 2014, the Commission sent a request to the Prosecutor to facilitate access to open-source material gathered by the Office of the Prosecutor; a broad selection of open-source material was subsequently provided to the Commission.

29. On 10 April 2014, the Special Representative of the Chairperson of the African Union Commission and Head of MISCA sent correspondence to the Commission of Inquiry to confirm the willingness of MISCA to cooperate fully in investigations through assistance provided by the Human Rights, Protection of Civilians and Gender Unit of MISCA. On 11 April 2014, the Commission acknowledged receipt of the correspondence and expressed appreciation for the offer of cooperation. On 14 April 2014, members of the secretariat of the Commission met with the Head of MISCA and his team to discuss and agree on a cooperation framework. The Commission has already transmitted a request for information to MISCA.

30. Through letters dated 24 April and 5 May 2014, the Commission sought the cooperation of Operation Sangaris. In particular, it requested information concerning specific incidents that had occurred in Bangui. On 12 May 2014, the Commission received a response from the Force Commander of Operation Sangaris advising it to submit its request through the most appropriate diplomatic channel.

31. Notes verbales were sent in May 2014 to Governments and to offices of the United Nations Development Programme in the Congo, Gabon, Equatorial Guinea, Cameroon and Chad, to facilitate the holding of consultative meetings of the members of the Commission with national officials and United Nations agencies.

II. Overview of the Central African Republic

A. Background

32. The Central African Republic, a former French colony, is a nation with a land mass of 622,984 km^2 (as the size of France and Belgium combined) and a population of just over 4.5 million inhabitants. It was granted political independence from France on 13 August 1960. It is bordered to the north by Chad and the Sudan, to the north-east by South Sudan, to the south by the Democratic Republic of the Congo and the Congo and to the west by Cameroon.

33. It is impossible to understand the current situation in the Central African Republic without considering the political evolution of the nation since it gained independence from France in 1960. The people of the Central African Republic have, for over five decades of political independence, been subjected to changes in government brought about, for the most part, by coup d'état. Along with these violent changes came corruption, non-respect of human rights, repression of free political expression, nepotism, lack of development and an almost total ambivalence to the needs of the population. Corruption became endemic, as the only goal of successive corrupt governments was the personal enrichment of the political leaders and members of their families through the embezzlement of public funds, the looting of public corporations, and the illegal exploitation of gold and diamond mines by criminal organizations and corrupt political leaders, while the bulk of the population lived in abject poverty and misery. Apart from the elections that brought to power the first President of the Central African Republic, David Dacko, in 1960, changes of government have taken place by violent coup d'état. The first coup, in 1965, was conducted by General Jean-Bédel Bokassa, who ousted Mr. Dacko, took power and later proclaimed himself emperor. His regime lasted until 1979, when Mr. Bokassa was deposed by the former President, Mr. Dacko. General André-Dieudonné Kolingba ousted Mr. Dacko in 1981 and remained in power until 1993, when Ange-Félix Patassé became the first elected President since independence. After many failed attempts over the years, General François Bozizé finally ousted Mr. Patassé in 2003 and took over as President. On 24 March 2013, Michel Djotodia ousted Mr. Bozizé through a coup d'état and proclaimed himself President.

34. On 27 January 2014, a Government of transition was put in place in the Central African Republic to govern the country for 18 months. During that time, it is expected that the Constitution will be amended and that local, legislative and presidential elections will be held. The current Government bears responsibility for what is happening in the country it governs and has authority over it.

B. Absence of rule of law, administration of justice and complete breakdown in law and order

35. The country presently lacks the administrative structures through which the authority of the State is exercised and, above all, it is a State without functioning criminal investigation, prosecution and judicial institutions.

36. Since independence in 1960, after each coup d'état, attempts were made and meetings were held to bring about national reconciliation. These efforts, however, were usually attempts to reconcile politicians and political formations and had

nothing to do with the people of the Central African Republic, many of whom had suffered during the violence that accompanied the coup d'état. These acts of political reconciliation were followed by amnesty laws that protected the main participants in the coup d'état from prosecution. All this allowed political leaders with blood on their hands to sit in the presidential office or become cabinet ministers, members of parliament or municipal counsellors. Over half a century, impunity became part of the political system in the Central African Republic.

37. After Mr. Bozizé took power by military coup in 2003, he came under pressure from the people of the Central African Republic and from the Economic Community of Central African States (ECCAS) to organize elections, which he eventually did in 2005. The elections were considered by other political parties as fraudulent. Those parties arranged violent protests all over the country and, between 2006 and 2011, various attempts were made to overthrow President Bozizé. As a result, various rebel groups came into existence during this period, the principal ones being the Armée populaire pour la restauration de la république et de la démocratie, the Union des forces démocratiques pour le rassemblement, led by Michel Djotodia, and the Front démocratique du peuple centrafricain.

38. In an attempt to work out a compromise and bring peace to the Central African Republic, ECCAS held many peace conferences between the belligerent parties, mainly in Libreville, between 2008 and 2011. Although these conferences produced agreements, none of them were ever implemented because of the intransigence of Mr. Bozizé. The fact that the 2011 elections were finally held without any of the various agreements concluded between 2006 and 2011 having been implemented aggravated the situation. The leaders of the armed groups and opposition parties accused the Bozizé regime of having won the elections through the implementation of massive fraud and irregularities, and led some armed groups and opposition parties to boycott the elections and to regroup in the north-eastern part of the country to prepare for an armed rebellion. The new grouping included elements of the Union des forces démocratiques pour le rassemblement and was joined by other movements, such as the Convention patriotique du salut du Kodro, the Convention des patriotes pour la justice et la paix and the Union des forces républicaines. In late 2012, these elements formed a loose alliance called "Séléka", which in the Sango language means "coalition".

39. In the face of this new danger and the fact that the north-eastern towns of Ndélé, Ouadda and Sam Ouandja were already under the occupation of the Séléka by December 2012, peace talks were once again hurriedly arranged in Libreville, to try to ensure the implementation of the fragile accords of 2007, 2008 and 2011 and to bring peace to the beleaguered nation. In spite of past failures, all the parties showed up in Libreville and, on 11 January 2013, they signed the Libreville Agreement on Resolving the Political and Security Crisis in the Central African Republic. It was already too late, however, and the Séléka continued their march on Bangui. Mr. Bozizé was forced out and power fell into the hands of the Séléka under the leadership of Mr. Djotodia. The departure of Mr. Bozizé was applauded by a large majority of the population in Bangui, who came out in big numbers to welcome their new hero, Michel Djotodia. Video clips of the first days of that new government show Mr. Djotodia moving freely in large crowds of cheering young men and women. That enthusiasm was short-lived, however, as Séléka elements started looting, killing and destroying property in the capital. Mr. Djotodia's inability to control his men, combined with the anti-balaka insurrection led to his

resignation on 10 January 2014, during the ECCAS extraordinary summit in N'Djamena.

III. The conflict

A. Nature of the conflict

40. The present conflict in the Central African Republic is rooted in the struggle to overthrow Mr. Bozizé shortly after he took power by force of arms in 2003. That struggle for political power lasted almost eight years. Mr. Bozizé remained in power mainly because he was generally supported by States members of ECCAS, who were opposed to another coup d'état after Mr. Bozizé was elected in June 2005.

41. The wanton violence committed by Séléka forces during their descent on Bangui from their stronghold in the north and north-east and the looting, destruction and killings carried out by those unruly armed forces, especially after they took power, quickly made the Djotodia regime very unpopular. Other forces and armed militia led by the remnants of the Central African armed forces and self-defence groups known as anti-balaka reorganized themselves to confront the Séléka, which they saw as a threat to their lives and property. The situation quickly degenerated into attacks carried out in retaliation and for vengeance by both sides. Today, the Séléka is a well-organized force with a command structure and a political and military hierarchy. The anti-balaka, on the other hand, do not seem to have an established and credible command structure, nor a political hierarchy. They tend to operate in autonomous armed groups with control over specific territories. In many communities, the anti-balaka have been acting in common cause with some elements of the armed forces.

B. Non-State armed groups and national armed forces

42. There are three main armed actors operating in the Central African Republic. The first of these are the members of the Séléka, a coalition of Central African armed groups and foreign fighters, predominantly of Muslim faith and most of whom were allegedly recruited from Chad and Darfur (the Sudan), who marched into Bangui and took power on 24 March 2013. When these forces set out from Ndélé and the neighbouring regions, there were about 1,600 fighters, but by the time they arrived at Damara, there were more than 3,500 heavily armed fighters. By the time Mr. Djotodia signed a presidential decree to dissolve the Séléka on 13 September 2013, there were over 3,500 armed fighters in Bangui operating under the Séléka banner. Despite the decree, the Séléka continue to operate.

43. The second group are the anti-balaka, whose name comes from the French words "*anti-balles AK-47*". In fact, the members of the anti-balaka, who are armed mainly with spears, machetes, bows and arrows, believed that the amulets and other supposedly magical artefacts that they wore would protect them from the bullets of AK-47s. As a matter of fact, it has been well documented that some of the groups known today to belong to the anti-balaka existed years before their attacks on the Muslim population made them notorious. They were independent groups, mostly composed of young men, that were formed for self-defence, to protect Fulani cattle raisers, peasant farmers and merchants in their villages and communities from cattle

rustlers and highway robbers often armed with AK-47s. Today, the anti-balaka are better organized than in the past and many of them are armed with AK-47 rifles.

44. The third group in the present conflict is composed of the armed forces of the Central African Republic, or what remains of them. During the last years of the Bozizé regime, the armed forces were already a divided and splintered army. Most of the men and women who constituted the armed forces during Mr. Bozizé's rule had mutinied or were in open rebellion against him. Confronted by the Séléka forces marching on Bangui, most of these troops abandoned their weapons and posts and fled to their villages or friendly communities. Some have now regrouped, either under the anti-balaka banner or as independent supporters of Mr. Bozizé.

C. March into Bangui by the Séléka

45. The march by the Séléka into Bangui happened in stages and was punctuated by attempts by the members of ECCAS to find a peaceful solution to the conflict. By 29 December 2012, the Séléka had total control of the following regions: Vakaga, Bamingui-Bangoran, Haute-Kotto, Ouaka, Nana Grébizi and Kémo-Gribingui. Although they had also taken the region of Ouham, on 10 December 2012 they withdrew to Sibut, the capital of Kémo-Gribingui. In every region over which they took control, they drove out the official administration and exercised de facto political power.

46. The regions under Séléka control by December 2012 represent almost half of the country. It is from this vantage position that the Séléka, led by Mr. Djotodia, attended talks in Libreville, where an agreement was signed on 11 January 2013. That last-minute attempt to bring peace did not stop the Séléka from marching into Bangui and taking power on 24 March 2013.

47. At that juncture, the majority of the population of Bangui that was dissatisfied with Mr. Bozizé and his government were quite prepared to welcome another coup d'état and rid themselves of another president who had overstayed his welcome. When Mr. Djotodia entered Bangui, which had already been taken over by the Séléka, there was great jubilation by both Muslims and Christians. Unfortunately, that jubilation was short-lived.

D. Other countries

48. It is not possible to understand the violence that has gripped the Central African Republic without examining the role that other countries in the subregion and elsewhere in Africa have allegedly played in the bloody drama that is still going on in the country. The Commission has received information that South African troops were allegedly involved at some point in the battle of March 2013. The Commission has not yet been able to investigate those allegations but will certainly do so in the second phase of its inquiry.

IV. International intervention

49. Because of the chaotic situation caused by the violent events that unfolded in the Central African Republic and the influx of refugees into neighbouring countries,

the States members of ECCAS greatly feared that the violence could spill beyond national borders. The departure of the President of the National Transitional Council, Mr. Djotodia, and the turmoil that he left behind were signals that something had to be done fast to contain the spreading violence caused first by Séléka forces and then by the response of the anti-balaka. In December 2013, France urgently put together an intervention force of 2,000 soldiers, Operation Sangaris, and dispatched them to the Central African Republic. This was followed by the transformation of the Central Africa Multinational Force, which was already on the ground in the Central African Republic, into MISCA, a much stronger African Union peacekeeping operation.

50. Operation Sangaris arrived in Bangui at the request of the National Transitional Government to ensure security and safety for the people of the Central African Republic, a task that was later taken over by MISCA. Operation Sangaris forces remain in Bangui ready to support MISCA in case of an armed aggression or attack. There have been some allegations of misconduct against Operation Sangaris. The Commission will be looking into all allegations against the international forces.

V. Applicable international legal framework

A. Qualification of the conflict as a non-international armed conflict

51. The Geneva Conventions of 1949 and their optional protocols regulate, among other things, the conduct of parties in non-international armed conflicts, which are usually defined as armed conflicts between governmental forces and non-governmental armed groups or among non-governmental armed groups only. While common article 3 of the Geneva Conventions applies in all such conflicts, the applicability of the second additional protocol, relating to the protection of victims of non-international armed conflicts, depends on the circumstances.

52. The Commission is of the view that there has been a non-international armed conflict since at least 1 January 2013. In response to acts perpetrated during that period by the Séléka against Christian civilians, local self-defence groups began reprisal attacks on the Séléka and the Muslim community. Soldiers of the armed forces and the Presidential Guards loyal to Mr. Bozizé reportedly organized, armed and joined the self-defence groups, which later became known as the anti-balaka. For instance, on 5 December 2013, the anti-balaka launched attacks against the Séléka in Bangui. That attack prompted a series of reprisal attacks by the Séléka and the anti-balaka that resulted in violence between Muslim and Christian civilians in the capital and in other regions of the country. It is estimated that some 1,000 people were killed in Bangui as a result of the attacks on 5 and 6 December 2013.

B. Applicable law

53. The situation in the Central African Republic from 1 January 2013 to the present day calls for the application of international human rights law, international humanitarian law and international criminal law.

International human rights law

54. The Central African Republic is party to numerous international human rights law treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights[3] and the Convention on the Elimination of All Forms of Discrimination against Women.[4]

55. The Central African Republic is also party to some human rights treaties of the African Union, such as the African Charter on Human and Peoples' Rights[5] and the Convention Governing the Specific Aspects of Refugee Problems in Africa.[6]

56. The Central African Republic is responsible for complying with its international obligations, which consist of respecting, protecting and fulfilling the human rights contained in the above-mentioned international human rights instruments. Furthermore, the Central African Republic is also obligated to abide by international customary law and jus cogens norms protecting human rights.

57. The derogations envisaged in certain human rights treaties are permissible only in exceptional circumstances. The Central African Republic has never informed the Secretary-General of any state of emergency that would exempt it from its obligations under the International Covenant on Civil and Political Rights. Moreover, the following rights, among others, are non-derogable: the right to life, the right to be free from torture and other cruel, inhuman or degrading punishment and the right to freedom of thought, conscience and religion. The Commission also recalls that, pursuant to article 2 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

58. International human rights law applies both in times of peace and in situations of armed conflict. As such, the Commission concluded that international human rights law applies in the Central African Republic throughout the period from 1 January 2013 to the present day.

International humanitarian law

59. The Central African Republic is party to the four Geneva Conventions of 1949 and their additional protocols. As indicated above, there has been a non-international armed conflict in the Central African Republic since at least 1 January 2013. Therefore, the provisions of common article 3 of the Geneva Conventions apply. The threshold required for the application of the second additional protocol has also been met.

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[1] Ratified by the Central African Republic on 16 March 1971.
[2] Acceded to by the Central African Republic on 8 May 1981.
[3] Acceded to by the Central African Republic on 8 May 1981.
[4] Acceded to by the Central African Republic on 21 June 1991.
[5] Ratified by the Central African Republic on 26 April 1986.
[6] Ratified by the Central African Republic on 23 July 1970.

International criminal law

60. The Central African Republic ratified the Rome Statute of the International Criminal Court on 3 October 2001. Many of the violations, abuses and crimes investigated by the Commission, such as the attacks against civilians perpetrated by Séléka elements since they entered Bangui in March 2013 and by anti-balaka elements since September 2013, including killings, torture, looting and rapes, constitute crimes that fall under the jurisdiction of the Rome Statute.

61. In order to prosecute and punish acts committed during recent conflicts, including war crimes, measures have been taken at the international level, for example through the establishment by the Security Council of ad hoc international criminal tribunals (the former Yugoslavia and Rwanda), courts (Sierra Leone and Lebanon) and extraordinary chambers (Cambodia and Timor-Leste). These entities have developed a strong and reliable body of jurisprudence that would guide any future prosecution of perpetrators of the violations committed in the Central African Republic.

VI. Violations and abuses

A. Alleged violations of international human rights and international humanitarian law by the armed forces and the Presidential Guards

62. During the period from 1 January to 24 March 2013, it was alleged that, when Mr. Bozizé was struggling to hold on to power, many human rights and international humanitarian law violations and abuses were committed in Bangui. The Commission received several reports and individual testimonies from former and current officials claiming that the armed forces and the Presidential Guards had perpetrated serious human rights and international humanitarian law violations.

63. According to a report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Central African Republic, several human rights violations were allegedly committed by former governmental forces, notably by the Presidential Guards and the armed forces, as well as by a militia group known as the Young Patriots (see A/HRC/24/59, paras. 27-34). Those violations included extrajudicial executions (January-February 2013), enforced and involuntary disappearances (January-March 2013), torture, ill-treatment, arbitrary arrest and detention (until the fall of Mr. Bozizé), looting of public and private property and violations of the rights to freedom of expression and movement. Most of the victims of the violations were considered to be supporters or sympathizers of the Séléka.

64. That period was allegedly marked by serious violations of international humanitarian law by the armed forces, the Presidential Guards and the Young Patriots. All the above-mentioned allegations and information contained in various reports relating to violations of international human rights and international humanitarian law by the armed forces and the Presidential Guard, in particular the attack on Damara on 22 and 23 March 2013, on Bossangoa on 22 March 2013 and on Boali on 23 March 2013, will be investigated during the second phase of the Commission's inquiry.

B. Alleged violations of international human rights and international humanitarian law by the Séléka

65. From 1 January to 24 March 2013, Mr. Bozizé was still in power and the Séléka were gradually marching from the north of the country towards Bangui. During that period, both the armed forces and the Séléka allegedly committed numerous human rights and international humanitarian law violations.

66. Also during that period, the armed forces and the Séléka were reportedly involved in summary extrajudicial killings, arbitrary arrests and detentions, forced disappearances, the torture and inhuman and degrading treatment of detainees, the destruction of property and other violations in various areas of the country (see A/HRC/24/59, paras. 35-50).

67. The Commission will commence investigations into the violations and abuses committed from 1 January to 23 March 2013 in the areas outside Bangui during the coming months.

68. The testimonies received by the Commission to date deal with human rights and international humanitarian violations that occurred from 25 March 2013 to the present. The violations committed by the Séléka during that period fall under the following categories: (a) violations of the right to property (pillage and destruction); (b) extrajudicial executions, killings and assassinations; and (c) sexual and gender-based violence.

Violations of the right to property (pillage and destruction)

69. Testimonial and documentary evidence received by the Commission shows that widespread and systematic looting and destruction occurred after Mr. Djotodia and the Séléka forces took over Bangui in March 2013.

70. The Commission has collected case files on looting from national non-governmental organizations and conducted 103 interviews with victims and witnesses of those violations. While additional information continues to be collected and analysed, the interviews conducted to date provide strong indications that the Séléka are responsible for systematic looting against the civilian population in Bangui.

71. Most of the cases reviewed to date have provided the Commission with reasonable grounds to believe that the Séléka looted using an established modus operandi. That modus operandi, which was confirmed by numerous witnesses, consisted of large numbers of Séléka elements arriving in an area with many cars and shooting in the air in order to intimidate the population before starting the looting, moving from door to door. The Séléka also broke doors and windows to enter closed houses and proceeded to loot all the belongings while intimidating the occupants and neighbours. In many cases, the Séléka members targeted and killed the male population.

72. Numerous witnesses confirmed that most of the Séléka members spoke no French or Sango, only Arabic. Members of the Séléka who looted were usually dressed in military attire and often wore turbans that covered their faces.

73. It was reported that when the Séléka members arrived in a particular area the male population had to flee to avoid being targeted and killed. Women and girls who did not flee were sometimes raped during the looting.[7]

74. The cases of looting reviewed to date, which inform the description provided above, took place during the period from March to December 2013. The Commission does not have an exhaustive list of all the incidents of looting that occurred in Bangui, as it was impossible to document all such cases. The incidents it did review are, however, illustrative of a sustained pattern of lootings and of the modus operandi used by the Séléka, giving the Commission grounds to believe that such incidents were rather widespread and carried out in a systematic manner.

75. Based on the testimonies gathered, the Commission has reasonable grounds to believe that the lootings committed by Séléka elements during the period from 5 September to the end of December 2013 constitute violations of human rights.

76. In addition, the Commission considers that, during the period from 24 March to 5 September 2013, acts of looting perpetrated by Séléka elements could also constitute human rights violations under article 11 of the International Covenant on Economic, Social and Cultural Rights.

Extrajudicial executions, killings and assassinations

Indiscriminate and targeted killing of civilians

77. The Commission has received testimonies that indicate that Séléka forces were involved in the killing of civilians and in what appear to be the targeted killing of persons mistakenly thought of as members of the armed forces or law enforcement agencies.

78. With regard to the killing of civilians, witness testimonies indicate that the Séléka were involved in the indiscriminate killing of civilians who were engaging in everyday activities, such as walking in the streets or shopping at markets.[8] In addition, a number of civilians — mostly men — were killed when the Séléka entered their houses for the purpose of looting.[9]

79. The Commission notes that the Séléka instilled a sense of terror in civilians, who felt threatened and prevented from engaging in routine activities. People in Bangui did not even feel secure in their houses or places of refuge owing to the continued attacks by the Séléka.[10]

[7] Interviews with P. K. and A. G., who were raped on 20 August 2013 at the Boy-Rabé district in Bangui when four Séléka members came and looted their house.

[8] Cases of K. V. O., a 16-year-old girl who was killed by the Séléka on 5 June 2013 while walking in the Miskine area of Bangui; Z. T. N., a 19-year-old woman who was killed while on her way to the market with her baby; and N. L., who was killed by a car driven by a Séléka element on 12 April 2013 while walking along Avenue B. Boganda in the centre of Bangui.

[9] Testimonies of A. P., whose father and aunt were killed by Séléka elements who came to loot their house in the fourth district of Bangui on 14 August 2013; and of Y. M. J., whose husband was killed when Séléka members came to loot her house in the second district of Bangui on 12 May 2013.

[10] Testimony of N. S., whose wife and two children were killed by the Séléka on 8 December 2013 in a church where they had gone to seek shelter.

Mass executions and mass graves

80. The Commission collected a specific case file from the national judicial and prosecuting authorities, as well as direct testimonies and photographs, related to a site of mass executions that was discovered at the *Colline des Panthères*, an area of Bangui. It is suspected that other mass graves in Bangui remain to be discovered.

81. The *Colline des Panthères* is a forested hill in the first district of Bangui, in close proximity to Camp de Roux, a military camp. On 24 December 2013, 31 bodies were discovered there by the national authorities.

82. The Commission reviewed the case file and conducted interviews with two survivors. Its investigators visited the site of the incident. Based on the information gathered, it appears that Séléka soldiers arbitrarily detained numerous persons considered to be anti-balaka elements at Camp de Roux. The Séléka troops allegedly tortured, mutilated and summarily executed at least 31 of them and threw their bodies into a ditch at the *Colline des Panthères*.

83. Further information gathered indicates that the government authorities should have been aware of those arbitrary detentions and mass executions, which took place in close proximity to the President's official residence.[11]

84. The indiscriminate and targeted killing of civilians, as well as mass executions, constitutes a violation of the right to life, in accordance with article 6 of the International Covenant on Civil and Political Rights. Such crimes also fall under article 7 of the Rome Statute and constitute crimes against humanity.

Sexual and gender-based violence

85. The Commission established working relations with a number of local and international non-governmental organizations and other institutions in order to gain access to alleged victims of sexual and gender-based violence. As a result, the Commission has so far received testimonies from 55 victims and witnesses of such violence, most of whom were raped during the lootings by the Séléka. Some of the girls and women were gang-raped.

86. Some of the interviewees talked about their feelings of utter humiliation, despair and shame, and about the physical and psychological impact of the rapes. This was especially true for the women who were gang-raped in their own houses, in front of their family members. The information provided during the interviews also indicate that rape was committed by Séléka forces as an opportunistic crime, while they were looting houses.

87. The Commission's investigations into those violations are still under way and its investigators are in the process of reviewing additional material. The Commission has reasonable grounds to believe that the cases reviewed to date constitute violations of the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights. They also constitute breaches of common article 3 of the Geneva Conventions, as well as of the second additional protocol to the Geneva Conventions.

[11] Case file No. 270/0PJ of 23 December 2013, on the discovery of dead bodies at the *Colline des Panthères*. Testimonies of B. C. E., who was arrested by the Séléka on 7 December 2013, and B. M., who was arrested by the Séléka on 17 December 2013.

C. Alleged violations of international human rights and international humanitarian law by the anti-balaka

88. After reviewing all the documentation and meeting numerous organizations and individuals, it was clear to the Commission that most of the violations committed by the anti-balaka were committed against the Muslim population. Furthermore, a preliminary assessment indicated that the majority of the violations were committed as part of a clear objective: to remove the Muslim population from the territory of the Central African Republic. While murder, torture, the looting and destruction of property and of buildings dedicated to religion are acts that could amount to genocide, crimes against humanity and/or war crimes, if combined and under specific circumstances, such acts could also be interpreted as ethnic cleansing. As a result, investigations were conducted not only to demonstrate whether the violations mentioned above had been committed but also to determine whether ethnic cleansing had been committed.

89. In the short time available, the Commission focused on gathering testimonies and evidence of the main violations committed by the anti-balaka since 5 December 2013. The Commission is still in the process of contacting hospitals, morgues and relevant stakeholders. It should be noted that many victims and witnesses had already left the country and, consequently, that the Commission was not able to interview valuable sources of information in Bangui.

Killings committed by the anti-balaka

90. Muslim civilians have been and continue to be killed since 5 December 2013. According to data received from the morgue, which is based in Ali Babolo Mosque, at least 330 bodies were received between 5 December 2013 and 31 January 2014. That figure is not exhaustive, as some of the bodies were not taken to the morgue. As some witnesses reported, there were times in which the situation was too unsafe for Muslims to reach the PK5 area where the morgue is located. The list however, includes some Muslim fighters.

91. According to testimonies received, among the victims were men and women of all ages and social backgrounds. The only factor they had in common was their religious identity. As several victims reported, during the attacks anti-balaka elements were shouting slogans against the Muslims saying that they wanted to get rid of them and that they did not want to hear "*Allahu akbar*" any longer.

92. Also according to testimonies, early in 5 December 2013 anti-balaka militias attacked, simultaneously and in a well-coordinated manner, Kasaï Camp[12] (south-east of Bangui), Boeing district (north-west of Bangui), the National Assembly, Boy-Rabé and Fouh districts located in an area considered to be former President Bozizé's stronghold. Witnesses said that killings took place in almost all these districts during the attack.

93. It is not known how many Séléka soldiers were killed during the attack on Kasaï Camp. However, the Commission was informed of the presence of up to 180 new recruits who were undergoing training and who were reportedly unarmed. One of the interviewed witnesses reported that six people he knew personally had been killed. Anti-balaka militias also reportedly killed a woman and a young man,

[12] Kasaï Camp become a Séléka base when the coalition seized power in March 2013.

both civilians, living in the Ngaragba area, just outside the camp. In the Boeing neighbourhood, at least nine bodies were retrieved by soldiers of the Presidential Guards. According to witnesses, most of the casualties belonged to traders killed in the local market.

94. At the same time, anti-balaka fighters, together with civilians, attacked Muslims living in the Boy-Rabé and Fouh neighbourhoods. Witnesses reported that a large number of people using machetes or guns and chanting anti-Muslim slogans targeted Muslim houses and shops. Two people were killed in Boy-Rabé and three in Fouh, including a woman. The three bodies found in Fouh were mutilated and/or burned.

95. On 6 December 2013, a ceremony for the death of 65 persons was held in Ali Babolo Mosque in Bangui. The bodies had been found in different parts of the city. It is unknown how many of them were Séléka soldiers. The Commission interviewed family members and witnesses, who reported that some 28 civilians, including three women, had been killed. Most had been killed in their homes or in the streets or had been abducted and were later found dead.

96. Violence against the Muslim community by anti-balaka militias has continued unabated, often resulting in the death of the persons targeted. According to figures provided to the Commission by the Ali Babolo morgue and the testimonies received, it would seem that attacks led by the anti-balaka in January 2014 caused more casualties and affected a greater number of districts inhabited by Muslims than the attacks of December 2013.

97. The Commission has received reports and pictures of people whose bodies were mutilated, disembowelled or decapitated. In many cases, people were burned. It is not always possible to determine whether those incidents were committed by the anti-balaka or by the civilian population.

98. According to reports provided by national and international organizations, there have been peaks in the violence between the two groups, such as on Christmas day in 2013, when 78 bodies, mainly of Christians, were collected by international humanitarian organizations. After former President Djotodia officially stepped down on 10 January 2014, violence against Muslims restarted: 65 bodies were reportedly taken from different neighbourhoods to the Muslim morgue on 10 and 11 January 2014.

99. On 24 January 2014, a former Minister of Health was attacked with machetes by anti-balaka militias stationed at one of the main roundabouts of the town after he was reportedly recognized as Muslim. He died in hospital as a result of his injuries. A person who was travelling with him survived, following the intervention of MISCA.

100. A series of killings also occurred at the end of February and beginning of March 2014 on the way from the airport to the city centre. Every Friday and Saturday, convoys of trucks and vehicles heading towards Chad or Cameroon would leave from a bus station, which Muslims staying at the camp for internally displaced persons near the airport would try to reach in order to leave the country. Taxis were intercepted; passengers were extracted by force, robbed of all their property and killed, often with machetes or knives. According to preliminary information received, such incidents took place on 28 February and 1 March and then again on 7 and 8 March 2014, in the Combattant neighbourhood, whose main avenue has

become known as the "death corridor". The Commission received images of the cut-up bodies that were later retrieved and taken to the Muslim morgue.

101. Children have not been spared by this violence. According to interviewees, at least seven children were killed by anti-balaka elements on 5 December 2013, when they entered Bangui. One witness said he had gone to Friday prayers leaving his wife and two children (aged 8 and 12 years) at home because he thought that, even if there was trouble, they would be spared. His house was attacked and he later found the bodies of his two children in Ali Babolo Mosque; he has not seen his wife since. Another witness, who used to live in PK12, reported that, following an attack by the anti-balaka in January 2014, he fled from his residence without his 10-year-old son because he did not know where he was. When he returned home, he found the decapitated body of his son and a machete lying at the doorstep.

Violation of the right to property (pillage and destruction)

102. All attacks against the Muslim community have involved the looting of houses and shops. Such looting has been followed by the complete destruction of entire Muslim-inhabited neighbourhoods. Satellite pictures of Fouh, Miskine, Combattant, Kina and Sara neighbourhoods show how entire blocks in Bangui have disappeared. According to figures provided by the Muslim community, at least 43 mosques in Bangui have been completely destroyed: doors, roofs and, sometimes, even bricks have been taken away. The Commission visited the mosques of Fouh, Boy-Rabé, Miskine, Malimaka and Ngaragba, and could confirm that nothing was left. The Fouh mosque has been transformed into a playground. The only mosques still intact are the few located near PK5.

103. According to satellite imagery obtained from the Operational Satellite Applications Programme on 22 February 2014, over 1,300 buildings have been destroyed, the majority of which are located in the third, fifth and eighth districts of Bangui, which is where the majority of Muslims were residing. Following an on-site assessment in the fifth district, figures published by the Central African Republic Shelter Cluster in March 2014 indicate that 650 shelters belonging to the minority Muslim community had been completely destroyed and that 178 had been partially destroyed. According to the reports received, it appears that anti-balaka fighters or sympathizers were mainly responsible for the systematic destruction of property. During its field visits, the Commission noted that new constructions were being built by non-Muslim individuals on sites inhabited previously by Muslims. Should this trend of illegal occupation be confirmed and no appropriate measures be taken to counter it, it could constitute a serious obstacle to the return of people of Muslim identity who used to live in these areas.

104. Following the above-mentioned attacks against Fouh and Boy-Rabé of 5 December 2013, similar attacks were carried out against Muslim communities based in the neighbourhoods of Galababa (15 December 2013), Sara (16 December 2013), Ngaragba (25 December 2013), Kolongo and Damala (1 January 2014), PK12 (January 2014), Galabadja (22 January 2014), Kina (25 January 2014), Kolongo (31 January 2014), Baidi (16 February 2014) and Combattant and Fondo (17 February 2014). In all cases, the attacks were carried out once the people had left their homes and their properties had been destroyed.

Ethnic cleansing

105. While not defined as a crime under international law, ethnic cleansing is nevertheless referred to under the principle of the responsibility to protect as including the deportation or forcible transfer of a population. Constant threats and the targeted and systematic destruction of Muslim properties have gradually forced Muslims in Bangui to leave their places of residence and move to safer areas. Entire neighbourhoods have effectively been cleansed of Muslim communities.

106. Well-orchestrated attacks have been carried out against the residents of the mainly Muslim neighbourhood of Miskine, in the fifth district. The attacks started on 26 January 2014 and continued for two days, at which time all the Muslim members of the community decided to leave their homes and properties and seek refuge at the central mosque. The following day, Muslim properties were destroyed by the local population and by the anti-balaka.

107. The Commission has given serious consideration to allegations of such attacks committed against the Muslim populations in Bangui and other areas of the Central African Republic. The Commission intends to continue to carry out investigations inside and outside Bangui in order to present its findings and conclusions in its next report.

108. In the view of the Commission, there is no doubt that, as the conflict and the violence have continued, with a bitter undertone of vengeance in the killings committed by the parties to the conflict, the first elements of a precursor to genocide have started to creep into the language of one of the parties to the conflict: the anti-balaka.

109. Language that consists of incitement to hatred is now prevalent in the propaganda of non-Muslim groups, represented in general by the anti-balaka, both in the media and on the streets. The Commission believes that the situation is still delicate and must be carefully monitored by the international community. The massive and forced displacement of the Fulani as an ethnic group and of the Muslim population as a religious group, in particular, may constitute acts of genocide.

110. The Commission has thought about what conditions would normally have to be present for an act to constitute genocide. Under the Convention on the Prevention and Punishment of the Crime of Genocide, in order for an act to be considered genocide it must be committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.[13] First and foremost, the crime of genocide requires, as do many other crimes, mens rea, that is to say the specific intention or knowledge of wrongdoing.

111. The Commission considers that it will be appropriate to assess, in the near future, the exact nature and characteristics of the alleged violations of international humanitarian law and international criminal law that may have been already

[13] In article 2 of the Convention, genocide is defined as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of the group to another group. The Convention was adopted by the General Assembly on 9 December 1948 (resolution 260 (III) A, annex) and entered into force on 12 January 1951.

committed by the parties to the conflict before making its findings in that respect known. It is worth noting that the Commission might not limit itself to investigating these alleged violations, but will continue to monitor the conduct of the parties involved. The Commission is continuously scrutinizing the situation on the ground.

VII. Responsibility

A. State responsibility

112. The State has the obligation to promote and protect international human rights law. Any nationally or internationally wrongful act that occurs in a State is the responsibility of the State concerned. All acts committed by State agents, including members of the military and the security forces, are the responsibility of the State. In the present conflict in the Central African Republic, the State is responsible for the violations committed during the last three months of the Bozizé regime and also under the short period when Mr. Djotodia was in power.

113. Since the departure of Mr. Djotodia and the installation of the new Government of transition, the State still remains primarily responsible for the crimes and violations being committed in the Central African Republic.

B. Individual criminal responsibility and superior or command responsibility

114. The principle that an individual who planned, instigated, ordered, committed or otherwise aided and abetted the planning, preparation or execution of a crime shall be held individually responsible for the crime has been firmly established by jurisprudence emanating from the Nuremburg and Tokyo trials and confirmed by the international criminal tribunals for the former Yugoslavia and for Rwanda, as well as by other similar entities with international jurisdiction.

115. The application of the principle of superior or command responsibility under international criminal law and jurisprudence clearly indicates that acts committed by a subordinate do not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators.

116. The principles of individual criminal responsibility under direct and superior or command responsibility should, in the considered opinion of the Commission, apply to all those suspected of having committed human rights violations. These would include members of the Séléka who committed various violations in several towns and villages as they marched from the north and north-east towards Bangui and from the time they took power until the present day. These principles should also be applied, to an equal degree, to the anti-balaka, whose members should be held individually responsible for the violations they committed in the Central African Republic during the reporting period.

117. The Central African Republic is party to the Rome Statute, which recognizes the principle that a person who orders a subordinate to commit a violation or a crime for which there is individual criminal responsibility is as responsible as the

individual who actually carries it out. This principle, first established during the Nuremburg trials, was adopted by the General Assembly on 11 December 1946 and applied by the International Criminal Court. This made it clear that the official position of any person, whether a Head of State or Government, a responsible government official or a leader of an armed group or of regular armed forces, shall not relieve such a person of criminal responsibility nor mitigate punishment. Furthermore, the fact that a person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility but may be considered in mitigation of punishment if justice so requires.

VIII. Preliminary conclusions

118. The Commission, at this stage of the inquiry and of the investigations, concludes that ample evidence exists to prove that individuals from all sides of the conflict have, between 1 January 2013 and the present day, perpetuated serious breaches of international human rights and international humanitarian law in the Central African Republic. The international community cannot ignore the fact that the Muslim community and some ethnic groups, such the Fulani, are currently being targeted and subjected to hate language by the armed forces and the anti-balaka, who are demanding the departure from the Central African Republic of all Muslims.

119. There are 700,000 internally displaced persons and refugees in the Central African Republic, a country with a population of just over 4.5 million inhabitants. It is notable, however, that in quite a few towns and villages Muslim community leaders have been able to take some action to protect Christian and other non-Muslim members of the community and that in other towns and villages Christian and other non-Muslim leaders have acted to protect their Muslim neighbours from the hands of extremists.

120. The Commission is particularly concerned about the fact that the institutions that should normally exist in a functioning State have either completely broken down in the Central African Republic or exist only in token form. The Government is unable to ensure the security of the population, enforce law and order and render to the people services that any normal Government would render.

121. The Commission is particularly concerned about the lack of effective law and order enforcement forces and of a fully functioning judiciary, a police department and courts capable of protecting the population. The fact that prison and police services are inexistent, especially in regions other than Bangui, means that ordinary, law-abiding citizens are easy prey to armed groups.

122. The Commission is seriously concerned about the outcome of a so-called "general assembly" of the Séléka that was held in Ndélé, the capital town of Bamingui-Bangoran, on 8 and 9 May 2014. After their failure to maintain control over the whole country, the Séléka have now retreated to their northern strongholds to reorganize themselves and put into place new military and political structures. By creating a high command covering particular regions, they have all but announced their intention to split the Central African Republic into two and establish a separate State for themselves. At the above-mentioned general assembly the de facto secession of three northern regions (Bamingui-Bangoran, Vakaga and Haute-Kotto) was announced through the creation of an army chief of staff, directorates of the

gendarmerie and a police force. This clearly indicates that there is the intention to create a parallel government in the occupied regions.

IX. Recommendations

123. At this point of its inquiry, the Commission fears that the critical situation of the Central African Republic may hide an even more serious armed conflict, which could break out at any moment.

124. On the basis of the first phase of its investigation, the Commission recommends that:

(a) The National Transitional Government:

(i) Take strong initiatives to foster the peaceful coexistence of communities and dialogue between Christian and Muslim communities and among politicians;

(ii) Speed up the process of rebuilding the judiciary and the law enforcement agencies so that they can fight impunity and investigate, prosecute and punish, in due course, persons or institutions involved in human rights violations and other international crimes;

(iii) Ensure that armed groups and individuals are not involved in the exploitation of natural resources, which could be used to finance their activities;

(b) MINUSCA:

(i) Continue to assist the National Transitional Government in ensuring the return to security in the territory of the Central African Republic, while awaiting the effective transfer of authority from MISCA and Operation Sangaris;

(ii) Ensure the speedy and robust implementation of its multifaceted mandate aimed at protecting civilians and that it support the transition process, the preservation of the territorial integrity of the Central African Republic, the delivery of humanitarian assistance, the promotion and protection of human rights and international law, national and international justice and the rule of law, disarmament, demobilization and reintegration, and repatriation.